

REMARKS

Applicant has studied the Office Action dated February 28, 2007. Claims 10, 13 and 14 are pending. Claim 10 is an independent claim. Claim 10 has been amended. Claims 1-9, 11 and 12 have been canceled without prejudice. No new matter has been added.

It is submitted that the application, as amended, is in condition for allowance. Reconsideration and reexamination are respectfully requested.

Finality of the Office Action

It is respectfully noted that the previous Office Action mailed on July 24, 2006, which was the first Office Action on the merits, asserted only rejections under 35 U.S.C. § 112, first paragraph. Therefore, it is respectfully submitted that the finality of the present Office Action is premature and it is respectfully requested that the Examiner withdraw the finality of the Office Action.

§ 112 Rejections

The Examiner rejected claims 10-14 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner asserted that the limitation "forming a substrate in an injection molding method at a temperature between 100 °C and 200 °C by using the stamper and the material" should recite "that the stamper is at a temperature of 100-200 degrees C" since the current claim language does not clearly indicate whether the "stamper," the "resin" or both are within the temperature.

It is respectfully noted that claims 11 and 12 have been canceled without prejudice with this paper. It is, therefore, respectfully submitted that the rejection is moot with respect to claims 11 and 12 and it is respectfully requested that the rejection be withdrawn.

It is respectfully noted that independent claim 10 has been amended with this paper to delete the asserted unclear language and to recite "a mold having a temperature between 160 °C and 200 °C." It is respectfully asserted that the ground for the rejection has been overcome and it is respectfully requested that the rejection be withdrawn.

§ 103 Rejection of claims 1-3, 5 and 6

Claims 1-3, 5 and 6 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kunitomo et al. ("Kunitomo" JP 2001-056959 (machine translation of record)) in view of Rijpers et al. ("Rijpers" U.S. Pat. Pub.2002/0110081), Sawada et al. ("Sawada" EP 737965) and Tokuda et al. ("Tokuda" U.S. Pat. No. 6,294,239). This rejection is respectfully traversed.

It is respectfully noted that claims 1-3, 5 and 6 have been canceled without prejudice with this paper. It is, therefore, respectfully submitted that the rejection is moot with respect to the claims and it is respectfully requested that the rejection be withdrawn.

§ 103 Rejection of claims 1-3 and 5-7

Claims 1-3 and 5-7 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kishima (U.S. Pat. Pub.2002/0057645) in view of Rijpers, Sawada and Tokuda. This rejection is respectfully traversed.

It is respectfully noted that claims 1-3 and 5-7 have been canceled without prejudice with this paper. It is, therefore, respectfully submitted that the rejection is moot with respect to the claims and it is respectfully requested that the rejection be withdrawn.

§ 103 Rejection of claims 1-3 and 5-9

Claims 1-3 and 5-9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over either Kunitomo or Kishima in view of Rijpers, Sawada and Tokuda, further in view of Lee et al. ("Lee" U.S. Pat. Pub.2003/0076768). This rejection is respectfully traversed.

It is respectfully noted that Lee has a publication date of April 24, 2003. It is further respectfully noted that the present application claims priority to Korean Application No. P2003-2454, filed on January 14, 2003, the priority claim and receipt of the certified copy of the priority document having been acknowledged by the Examiner in the previous Office Action mailed on July 24, 2006. Moreover, it is respectfully noted that claims 1-3 and 5-9 have been canceled without prejudice with this paper.

It is respectfully submitted that Lee, which has a publication date that antedates the priority date of the present application, is not a valid reference with respect to the present application. It is further respectfully submitted that the rejection is moot with respect to the claims. Therefore, it is respectfully requested that the rejection be withdrawn.

§ 103 Rejection of claims 1-9

Claims 1-9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over either Kunitomo or Kishima in view of Rijpers, Sawada, Tokuda and Lee, further in view of Ohno (U.S. Pat. Pub.2002/0025443). This rejection is respectfully traversed.

It is respectfully noted that claims 1-9 have been canceled without prejudice with this paper. It is, therefore, respectfully submitted that the rejection is moot with respect to the claims. As was previously respectfully submitted, Lee is not a valid reference with respect to the present application. Therefore, it is respectfully requested that the rejection be withdrawn.

§ 103 Rejection of claims 1-3, 5-7, 10, 13 and 14

Claims 1-3, 5-7, 10, 13 and 14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over either Kunitomo or Kishima in view of Rijpers, Sawada and Tokuda, combined with Kashiwakura et al. ("Kashiwakura" U.S. Pat. No. 5,590,097) and/or Takahashi et al. ("Takahashi" U.S. Pat. No. 5,792,492) and Murata et al. ("Murata" U.S. Pat. No. 6,468,618). This rejection is respectfully traversed.

It is respectfully noted that claims 1-3 and 5-7 have been canceled without prejudice with this paper. It is, therefore, respectfully submitted that the rejection is moot with respect to claims 1-3 and 5-7 and it is respectfully requested that the rejection be withdrawn.

It is respectfully noted that the Federal Circuit has provided that an Examiner must establish a case of prima facie obviousness. Otherwise the rejection is incorrect and must be overturned. As the court recently stated in In re Rijkaert, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993):

“In rejecting claims under 35 U.S.C. § 103, the examiner bears the initial burden of presenting a prima facie case of obviousness. Only if that burden is met, does the burden of coming forward with evidence or argument shift to the applicant. ‘A prima facie case of obviousness is established when the teachings from the prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art.’ If the examiner fails to establish a prima facie case, the rejection is improper and will be overturned.” (citations omitted.)

It is respectfully noted that independent claim 10 has been amended with this paper to recite a mold having a temperature between 160 °C and 200 °C and DLC (Diamond Like Carbon) layers formed on the heat-insulation layer and the pit pattern. It is respectfully submitted that none of Kunitomo, Kishima, Rijpers, Sawada, Tokuda, Kashiwakura, Takahashi and Murata disclose these limitations.

Therefore it is respectfully asserted that claim 10 is allowable over the cited combination of references. It is further respectfully asserted that claims 13 and 14, which depend from claim 10, also are allowable over the cited combination of references.

§ 103 Rejection of claims 1-3, 5-7 and 10-12

Claims 1-3, 5-7 and 10-12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over either Kunitomo or Kishima in view of Rijpers, Sawada and Tokuda, combined with Kashiwakura and/or Takahashi and Miya et al. (“Miya” EP 1086797). This rejection is respectfully traversed.

It is respectfully noted that claims 1-3, 5-7, 11 and 12 have been canceled without prejudice with this paper. It is, therefore, respectfully submitted that the rejection is moot with respect to claims 1-3, 5-7, 11 and 12 and it is respectfully requested that the rejection be withdrawn.

It is respectfully noted that Miya discloses only that one DLC layer is formed on a surface of the stamper. It is respectfully submitted that Miya fails to cure the deficiencies of Kunitomo, Kishima, Rijpers, Sawada, Tokuda, Kashiwakura and Takahashi with regard to a mold having a temperature between 160 °C and 200 °C and DLC (Diamond Like Carbon) layers formed on the heat-insulation layer and the pit pattern, as recited in independent claim 10. Therefore it is respectfully asserted that claim 10 is allowable over the cited combination of references.

CONCLUSION

In view of the above remarks, Applicant submits that claims 10, 13 and 14 of the present application are in condition for allowance. Reexamination and reconsideration of the application, as originally filed, are requested.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein; and no amendment made was for the purpose of narrowing the scope of any claim, unless Applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references.

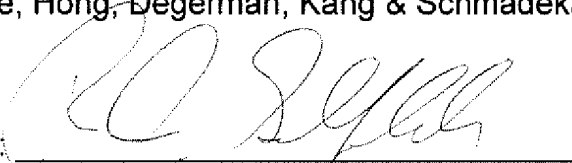
If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Los Angeles, California telephone number (213) 623-2221 to discuss the steps necessary for placing the application in condition for allowance.

Respectfully submitted,

Lee, Hong, Degerman, Kang & Schmadeka

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